



Penny Bernard Schaber

Serving the heart of Appleton

STATE REPRESENTATIVE 57th ASSEMBLY DISTRICT

Thank you Mr. Chairman, and committee members for having a public hearing on AB 215 this morning.

I would first like to provide you with some back ground information on how and why this bill was written.

In May of 2010, I was contacted by several parents who raised concerns about the Facility (Day Care Center) where they had their children placed for day care. The parents asked me questions about how Day Care Centers were licensed and inspected in Wisconsin because they had concerns about the place they were enrolled for Day Care. The parents also gave me information indicating that this facility had had complaints filed against it, but continued to operate without any change and with increasing concern being raised by parents.

Upon investigation I found many things that raised my level of concern.

- The facility, a home centered location, had a complaint filed on 4-17-2008 and it was found that the facility was previously licensed as a day care center but no longer held that license.
- A letter was sent to the facility on 4-21-08 asking them to renew their license because in order to continue to operate that was a requirement.
- On 5-9-08 an unannounced visit was done at the facility. No children were present and the operator said she would explore renewing her license but did not commit to renewing the license.
- Another complaint was filed on 10-19-2009 for the same facility, an inspection by a licensing specialist from the Department of Health and Family Services took place.
- 15 children including infants with 4 care takers were present however the facility now called itself a private pre-school.
- The facility had a website and indicated to the inspector that they would soon be moving out of the home to a school setting. Parents indicated to the investigator that they did not receive report cards or other measures of improvement. At this time the facility was not listed on the DPI private school directory.
- An unlicensed child care complaint response was completed and given to the provider. During the visit a number of children were found in the home, on the first floor and in the basement. A total of 10 non-related children were present.
- No paperwork was found at the Department of Public Instruction so an order to stop operating without a license was issued on 10-27-09.
- On 4-30-10 another complaint was filed against the same facility. The complaint was filed through the Department of Health and Family Services. This complaint indicated that 37 children were being cared for by 3 adults. The filed report states that the facility was listed as a private school in the DPIU directory and was in the process of moving to a new location.

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- The report includes this statement; "We received an unlicensed child care complaint on 4/30/10. **Due to their private school designation they are exempt from requiring a child care license under ch. 48. Therefore no unlicensed complaint visit/investigation was conducted.**" (in bold on the form)
- The listing on the DPI website was verified; however an incorrect address was listed for the schools location while it continued to operate in the original location the proprietor's home.
- The licensing specialist who did the first inspection felt that it was necessary to continue an inspection but because she could not inspect a private school she instead contacted the City of Appleton Fire Inspector.
- The fire department inspected the home on 5-3-10. They were told there were 14 children present. 19 children were counted by the inspectors. The inspectors found the facility to be of concern and immediately asked the workers to contact parents to have them come and pick up their children and remove them from the facility.
- Pictures were taken during and after the fire inspection. These were reviewed by Outagamie County Protective Services to follow up with parents and their children. At this point the facility was closed and has not re-opened.

When the parents contacted me in May 2010, after the facility was closed they wanted to know how this was allowed to happen. The only answer I could give them was that it was legal for the proprietor to call her facility a Private School and then the facility did not need to meet any licensing requirements. Our local newspaper, the Post Crescent, ran a series of articles about this incident and used them as an opportunity to educate families on how to investigate and pick an appropriate day care center.

The parents continued to ask me to make sure that something like this could not happen again. I told them I would check everything out, follow up with the state and local departments involved in the investigations and do what I could to not let another incident like this happen.

That brings us to this hearing for Assembly Bill 215 which requires a facility that cares for children under the age of three be a licensed day care facility.

As per the Legislative Reference Bureau analysis AB 215 does the following:

Under current law, no person may for compensation provide care and supervision for four or more children under seven years of age for less than 24 hours a day unless that person obtains a license to operate a child care center from the Department of Children and Families. Certain persons, however, including parochial schools, are exempt from this requirement.

This bill requires a private school that provides such care and supervision for children under three years of age to obtain a license to operate a child care center.

This is done by amending one statute and creating another statute:

SECTION 1. 48.65 (2) (b) of the statutes is **amended** to read:

48.65 (2) (b) A public ~~or parochial~~ school or a tribal school.

SECTION 2. 48.65 (2) (bm) of the statutes is **created** to read:

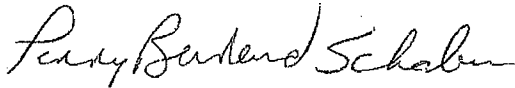
148.65 (2) (bm) A private school, as defined in s. 115.001 (3r), unless the private school provides care and supervision for children under 3 years of age.

In the process of working on this bill I have worked with the Department of Children and Family Services, the Department of Public Instruction, with day care providers and their representative association and the Association representing private schools. I have worked to incorporate suggestions for improvement in the bill and have worked to make sure we do not infringe on the ability to have private schools in Wisconsin.

I think it is important, actually essential, to listen to our constituents when they identify a concern and a problem and then respond with a solution. I think AB 215 is a solution to a problem that could have been bigger than it was and that could have resulted in serious harm to children because a proprietor decided to be a private school and not a day care so the license fee and regulations could be and were easily avoided.

I urge you to consider and support AB 215 as a way to meet the needs of parents throughout Wisconsin and not just in Appleton.

Thank you, Mr. Chairman and Committee Members, for your attention.
I can answer any questions you have.

A handwritten signature in cursive script, reading "Penny Bernard Schaber".

Penny Bernard Schaber
State Representative
57th Assembly District

TESTIMONY IN FAVOR OF AB 215

by

Jeff Spitzer-Resnick

Managing Attorney

October 4, 2011

As many of you may be aware, Disability Rights Wisconsin (DRW) is Wisconsin's protection and advocacy agency for people with disabilities. In my work as Managing Attorney for DRW's Schools & Civil Rights team, one area that I have worked to improve is child care for children with disabilities. In fact, DRW, along with other members of the Early Learning Coalition, played a key role in the eventual passage of Youngstar, Wisconsin's new Quality Rating and Improvement System for childcare centers. Our goal in working on Youngstar has been to make quality child care universally available in Wisconsin for children with disabilities, something that has simply not been true to date.

DRW supports AB 215 because, if passed, it would close an important loophole in Wisconsin's effort to improve its child care system. Currently, all the health and safety regulations in Wisconsin's childcare laws simply do not apply to private schools which provide childcare. In addition, that means that these schools do not receive the important training and quality improvement built into Youngstar.

Both business and educational leaders understand that quality early learning experiences are critical to long term educational and vocational success. This is particularly true for those who have extra challenges built into their lives, such as children with disabilities. Since Wisconsin is on the path towards building a high quality early learning system, the legislature should pass AB 215 in order to keep moving forward in this direction.

I would be glad to answer any questions you may have about our position either during this hearing or at a later date.



WISCONSIN COUNCIL ON

**children
& families**

Raising Voices to Make Every Kid Count

555 West Washington Ave, Suite 200
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Testimony on AB 215: Requiring a private school that provides child care to be licensed

The Wisconsin Council on Children and Families strongly supports this bill. We believe that the current child care licensing law needs to be amended to assure that young, vulnerable children served by private schools are protected by the health and safety rules that thousands of child care centers and homes must meet.

Currently child care and preschool programs providing care and supervision to 4 or more children under age 7 unrelated to the provider are required to be licensed to promote and protect the health, safety and welfare of the children. Over 5,000 child care centers and family child care homes are currently licensed. Originally public schools and YMCAs were exempt from licensing, but YMCA child care programs are now required to be licensed, and public schools that choose to operate a child care program for young children must assure the program meets licensing standards. A discrimination law suit allowed private schools to operate child care programs without licensing. It is time to close this loophole, at least for children under age three. Only private schools are exempt from child care licensing under current law.

We support closing the loophole that allowed an Appleton private school in 2010 to care for up to 37 infants and preschool children in unsafe conditions without the protection of licensing. The Appleton Fire Department found the 37 children in care, ranging in age from 3 months to 5 years, including infants sleeping in a closed basement room with no supervision, smoke detectors, or monitors. The Appleton Fire Department found numerous safety violations, but child care licensing officials had no jurisdiction to act earlier. For the safety of our youngest children, we support AB 215.

David Edie
Early Education Policy Analyst
Wisconsin Council on Children and Families
October 4, 2011



JULIE LASSA

STATE SENATOR

Testimony on Assembly Bill 215
Assembly Committee on Education
Tuesday, October 4, 2011
State Capitol, Room 417 North
10:00am.

Chairman Kestell and members of the Assembly Education Committee,

Thank you for allowing me to submit testimony today on Assembly Bill 215, which will protect children from unscrupulous childcare providers who cut corners and endanger child safety, without adding additional regulations to legitimate private schools and childcare centers.

Assembly Bill 215 closes a loophole in existing state law that allows childcare centers to operate without proper licenses by simply defining themselves as private schools. Assembly Bill 215 will close this loophole by requiring private schools that care for children under the age of three to obtain a license to operate a childcare facility in Wisconsin.

The loophole in existing state law first came to light in May 2010, when the Appleton Fire Department closed Grace's Garden Academy, a Fox Valley care center, for building code violations. The inspector found numerous violations, including 5 infants sleeping in a closed basement room with no supervision or monitors, no functional smoke detectors, and a basement packed with toys from the floor to ceiling. The inspector also found a total of 19 children, ranging in age from three months to five years, under the care of only three adults. Inspectors from the state Dept. of Children & Families attempted to close the center in the fall of 2009, but Grace's Garden was able to remain open when the owner declared it a private school.

Quality childcare is important for the safety and wellbeing of both children and parents. Parents should not be in the position of worrying whether their children are being placed in an unsafe and unhealthy environment after they leave. One mother whose children attended Grace's Garden Academy noticed that her daughter was having respiratory problems and wasn't sleeping at night. She believes this is because her daughter was placed, without monitors, in Grace's Garden Academy's dark, moldy basement during the day. When fire inspectors investigated, they could not file criminal charges because there are none on the books. They were, however, able to cite Grace's Garden with a "failure to have a permit before occupancy." This is not acceptable.

Unregulated private schools should not be able to care for infants and young children without some type of regulatory oversight to ensure they are meeting health and safety standards. This proposal will help protect children by forcing illegal childcare centers to either clean up their act or close down.

Thank you again for the opportunity to submit testimony to you today regarding this important legislation. Please feel free to contact me directly at 608-266-3123 should you have any questions.

Testimony for Assembly Bill 215 – SuAnne Rieckman – 1228 W. Cottonwood Ct., Appleton

I am here today to ask for your support of Assembly Bill 215. This bill was born from an event that affected me personally: On Monday, May 3, 2010 I was contacted at work and told I needed to come to my children's place of care to pick them up. At that time, my son, Gus, was 3, and my daughter, Adah, was only 9 months old. I asked what was going on, but was only told, again, that I just needed to come to get my kids. When I arrived to pick them up, my children were handed to me and there were several other parents there to pick up their children. There was a fire marshal sitting in the living room. The scene was chaotic. I inquired, once more, as to what was happening and was told that they would call me later. Relieved just to see that my children were alright, I was happy to take them home where I knew they were safe.

The phone call they promised never came. Despite multiple attempts to contact the daycare owners, there was never a returned phone call. I didn't get a call from any agency - fire or police department - either. I knew deep down that something had been very wrong, so I began investigating myself. I finally talked to police officials and the fire marshal that had been at the daycare on the day they closed. The fire marshal informed me that on May 3, when he went into the home, there were too many children in the residence for the square footage of the home. I had suspected that might be the problem. What he said next, however, was something I would never have suspected: he found several children in the basement. My heart sank, and I began to sob. Up to that point I had not told him the names of my children, so I said, "My kids names are Gus and Adah Rieckman. Were either of them in the basement?" He apologized and said that he couldn't reveal names at that point, but there would be a social worker calling with additional information. Days later the call I was dreading came: Adah had been one of several babies that was left alone in the basement. The police report indicated that there was not even a baby monitor down there for anyone to hear if the children needed help.

Over the next few days I went through so many emotions: anger – at both the adults caring for my children, and at myself. *I should have asked more questions. I should have done a surprise walk-through of the house.* I blamed myself. I was mostly so sad. I cried as I put my Adah in her crib at night, thinking *she probably hates being left alone in the dark. Who knows how many long hours she spent down in that basement by herself-crying with no one to hear her.* Several mysteries began to make sense: Adah had a chronically runny nose from 3-9 months of age. It stopped within days of her being away from the daycare. After talking to her doctor, we determined it had to be the cold, musty, moldy basement had created her respiratory issues. I had also always wondered why it took her so long to sleep through the night. Shortly after leaving that daycare center, she began to have a regular sleep pattern; probably because she was kept in the dark basement of her daycare for such long periods during the day.

These pictures are only a few of those taken of the basement conditions by the fire department when they entered the daycare. Knowing my baby had been kept in a basement for most of the day ordinarily would be bad enough. But as you can see in these photos, there was a hoarding-like situation in the basement as well, with only a small, meandering path leading to the back room where my little Adah spent most of her days.



The room behind the door is where they found my baby, Adah, along with several other children.



Was a child actually sleeping there?



The fire department noted that there were toys and other items piled around the furnace. A certain fire hazard.



Adah was in one of these cribs. The *What if?* Questions are what drives me to ensure this never happens to another child.

Please note that these are NOT the conditions I saw. I was always welcomed with a smile into the extremely clean, pleasant home that they presented, all of which was a lie.

After all that had happened – reading the police report, seeing the pictures, finding out about the many lies and cover-ups the daycare workers had done in order to have that many children in the home without having parents suspect anything - what I was most shocked by was the fact that the police were not able to file any charges. The reason? **The daycare center had filed paperwork with the DPI to become a private school, therefore making them exempt from any regulations on childcare centers.** There had actually been several visits to the home from the Department of Children and Families to check on the facility after some parents had raised suspicions about the daycare. Each time they came, however, the owner would flash a form from the DPI in her face and tell her she was not allowed to enter because they were a private school. I had never signed my children up for a private school and had never intended for them to be in anything more than a daycare setting. The owners never told me that they had registered as a private school, therefore waving any regulations that other daycare centers have. I felt helpless, knowing that my children had suffered, and that there would be no consequences for any of the adults at that daycare.

I know that there are many in-home daycares that are loving, caring places. I also respect a private school's right to educate children in their own way and know that most are dedicated to giving children a good education. I know that Bill 215 is aimed at a very few people who have learned to abuse our system for their own gain. But then I think about how many children may be affected by these few places. In our situation alone the police report sites 19 children found in the home, but also sites there were an unknown number shuffled off to the house next door to hide. That's in one center alone!

I felt anger and disappointment toward the way our particular situation concluded. But after everything was said and done, I knew the outcome was much better than it could have been. If there had been a fire, or if some of those boxes had fallen on Adah, the outcome would have been unthinkable. In the end my children were safe and sound, and I began to think of other children that could be in the same situation. I knew the only way to bring about some resolution and peace to our situation was to make sure it never happened to others. The only way to do that is to change the law. This opportunity is now before you.

As far as I could learn, my son wasn't ever put in the basement. Why? He could talk. They were actually choosing young children that had no voice. They couldn't speak up and tell their parents what was going on. They couldn't ask for help. Bill 215 is aimed at speaking on behalf of those children. You are their voice. You can protect them. You can prevent our situation from happening to others. Please vote in favor of Bill 215.



Wisconsin Department of Public Instruction
HOME-BASED PRIVATE EDUCATIONAL PROGRAM
PI-1206 (Rev. 4-09)

INSTRUCTIONS: Complete and retain the pink copy for your records and return the original and the yellow copy to:

**WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION
SCHOOL MANAGEMENT SERVICES / HOME-BASED
125 SOUTH WEBSTER STREET**

**P.O. BOX 7841
MADISON, WI 53707-7841**

School Year

2009-2010

The sections listed are references to the Wisconsin statutes.

For additional information about the Home-Based Private Educational Program, call: (608) 266-5761 or toll free 1-888-245-2732, ext. 1.

1. **Section 115.30(3)** On or before each October 15, each administrator of a home-based private educational program shall submit, on forms provided by the department, a statement of the enrollment on the third Friday of September in the elementary and secondary grades under his/her jurisdiction to the department.

HOME-BASED ENROLLMENT DATA <i>Indicate the Number of Children in Each Grade Level and the Name of the Public School District of Residence.</i>													Total No. of Children 1-12 and Ungraded In Program Only	
	1st	2nd	3rd	4th	5th	6th	7th	8th	9th	10th	11th	12th	Ungraded 1-12	9-12
MALE														
FEMALE														

Name of Public School District of Residence

2. **Section 115.001(3g)** "Home-based private educational program" means a program of educational instruction provided to a child by the child's parent or guardian or by a person designated by the parent or guardian. An instructional program provided to more than one family unit does not constitute a home-based private educational program.

Section 118.15(4) Instruction in a home-based private educational program that meets all of the criteria under s. 118.165(1) may be substituted for attendance at a public or private school.

Section 115.30(3) The administrator of each home-based private educational program shall indicate in his or her report whether the system or program meets all of the criteria under s. 118.165(1).

Section 118.165(1)

- (a) The primary purpose of the program is to provide private or religious-based education.
- (b) The program is privately controlled.
- (c) The program provides at least 875 hours of instruction each school year.
- (d) The program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health. This subsection does not require the program to include in its curriculum any concept, topic, or practice in conflict with the program's religious doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the program's religious doctrines.
- (e) The program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement under s. 118.15(1)(a).

The program meets all of the above named criteria. Check one

☐ True ☐ False

RECOMMENDATIONS: It is recommended that a copy of the school calendar verifying a minimum of 875 hours of instruction and course outlines verifying that there exists a sequentially progressive curriculum of fundamental instruction be maintained in your home.

Name of Parent or Guardian Print or Type

Street Address If mailing address is a P.O. Box, also list street address.

City

State

Zip

Signature of Parent/Guardian

Date Signed Mo./Day/Yr.